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11 **IN THE UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN**  
13 **DIVISION**

14 DIANA TAIT, NANCY  
15 WENTWORTH, BEVERLY  
16 GIBSON, SHARON COBB and  
17 TRISH ISABELLA individually  
and on behalf of all others  
similarly situated,

18 Plaintiffs,

19 vs.

20 BSH HOME APPLIANCES  
21 CORPORATION, a Delaware  
22 Corporation,

23 Defendant.

) Case No. SACV10-711 DOC  
(ANx)

) **~~PROPOSED~~ AMENDED**  
) **PROTECTIVE ORDER RE**  
) **USE OF CONFIDENTIAL**  
) **DOCUMENTS AND**  
) **INFORMATION**

) *Assigned to:*  
) District Judge: Cormac J. Carney  
) Discovery Magistrate Judge:  
) Arthur Nakazato

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25 IT IS HEREBY ORDERED, based on the stipulation of the parties,  
26 and sufficient cause being found therefore, that this Amended Protective  
27 Order shall be entered on the terms set forth herein and shall govern the

1 handling of documents, answers to interrogatories, responses to requests  
2 to admit, responses to demands for documents, depositions, deposition  
3 exhibits, pleadings, exhibits, and all other information produced or  
4 obtained by any party or non-parties in the course of this action that  
5 contains “Confidential Information” as defined herein.

6 **A. DEFINITION OF CONFIDENTIAL INFORMATION**

7 “Confidential Information,” as used herein, means any type or  
8 classification of information, whether it be a document, information  
9 contained in a document, information revealed during a deposition,  
10 information revealed in an interrogatory answer, or otherwise, which is  
11 designated when it is produced as “Confidential” by the supplying party.  
12 In designating information as Confidential Information, the party so  
13 designating will make such designation only as to that information  
14 which has not been made public by the designating party that it believes  
15 contains trade secret, confidential, private, and/or proprietary  
16 information. By designating a document, thing, material, testimony or  
17 other information “Confidential,” under the terms of this order, the party  
18 making the designation is certifying to the Court that there is a good  
19 faith basis both in law and in fact for the designation within the meaning  
20 of the Federal Rule of Civil Procedure 26 (g).

21 If a party claims a document produced by a third party is  
22 Confidential Information (“Confidentiality Claimant”) and its counsel  
23 notifies the other party’s counsel (“Recipient”) that the Confidentiality  
24 Claimant is claiming said information or thing is Confidential  
25 Information, the Recipient will treat said information or thing as  
26 Confidential Information pursuant to the terms of this Amended  
27 Protective Order for thirty days from the date of notice of  
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1 Confidentiality Claimant's position. If Recipient disagrees that said 3<sup>rd</sup>  
2 party thing or information is Confidential Information, Confidentiality  
3 Claimant will file a motion for protective order within thirty days of said  
4 notice by Recipient. If said motion is not timely filed, Recipient may  
5 use said thing or information as they chose. If Confidentiality Claimant  
6 files a motion for protective order, the thing or information, produced by  
7 a third party shall be treated as Confidential Information pursuant to the  
8 terms of this Amended Protective Order until the Court issues its order  
9 on said motion for protective order. The Recipient agrees to treat the  
10 third party thing or information as ordered by said Court.

11 **B. PROCEDURE FOR DESIGNATING**  
12 **MATERIAL AS CONFIDENTIAL**  
13 **INFORMATION**

14 1. Confidential Information shall include all documents  
15 provided by a party which have been designated as confidential by  
16 marking the page: "CONFIDENTIAL". In lieu of marking the original  
17 of documents, the party may mark the copies that are produced or  
18 exchanged.

19 2. The identification of information as Confidential by a  
20 supplying party shall be made at a time when an answer to an  
21 interrogatory or an answer to a request for admission is served, when a  
22 copy of a document is provided to the other party, and when an  
23 inspection of premises or tangible things is made.

24 3. Information provided by oral testimony given in a  
25 deposition may be designated as confidential by indicating on the record  
26 at the deposition the testimony which the asserting party claims is  
27 Confidential Information and subject to the provisions of this Order.

1 No Confidential Information may be read by anyone other than a  
2 Qualified Person. The parties will inform the court reporter who is  
3 stenographically recording said testimony to mark those portions of the  
4 testimony they assert is Confidential Information. The party that  
5 requests a portion of the deposition testimony be marked as  
6 "Confidential" shall pay all amounts that the court reporter charges for  
7 marking portions of the deposition transcript as "Confidential  
8 Information."

9 4. If any party believes that a document or other information,  
10 which has been designated as Confidential Information is not  
11 Confidential Information, that party will notify the party asserting the  
12 information is Confidential Information and the parties shall resolve  
13 their dispute as provided by FRCP and Local Rules. If no agreement  
14 can be reached, the party seeking to challenge the designation of the  
15 document shall file a Motion for Relief. Until the Court resolves the  
16 motion, the document will be treated as Confidential subject to the terms  
17 of this Amended Protective Order.

18 **C. QUALIFIED PERSONS WITH ACCESS TO**  
19 **CONFIDENTIAL INFORMATION**

20 1. Information or material designated as Confidential  
21 Information, or copies or extracts therefrom and compilations and  
22 summaries thereof, may be disclosed, summarized, described,  
23 characterized, or otherwise communicated or made available in whole or  
24 in part only to the following Qualified Persons:

25 (a) counsel of record of parties in this action  
26 and their related entities and regular and temporary  
27 employees of such counsel to whom it is necessary that the  
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1 information or material be shown for the purposes of this  
2 litigation, and defendant's in-house counsel;

3 (b) a named party, or a present or former  
4 officer, director, employee, of a party deemed necessary by  
5 counsel to aid in the prosecution, defense, or settlement of  
6 this action;

7 (c) consultants and experts retained or  
8 employed to assist the attorneys of named parties in the  
9 prosecution, defense, or settlement of this action;

10 (d) court reporters and videographers employed  
11 in connection with this action;

12 (e) graphics or design services retained by  
13 counsel for a party for the sole purposes of preparing  
14 demonstrative or other exhibits for deposition, trial, or other  
15 court proceedings in this action, subject to and conditioned  
16 upon compliance with Section D herein;

17 (f) non-technical jury or trial consulting  
18 services retained by counsel for a party, subject to and  
19 conditioned upon compliance with Section D herein; and

20 (g) any other person only upon Order of the  
21 Court or upon prior written consent of the party who  
22 designated the information or material confidential, subject to  
23 and conditioned upon compliance with Section D herein.

24 2. All persons listed in Section C(1)(c), (e), (f) and (g)  
25 above may be given access to information or material designated as  
26 "Confidential Information provided that they first confirm their  
27 understanding and agreement to abide by the terms of this Amended  
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1 Protective Order by completing and signing a copy of an undertaking in  
2 the form attached hereto as *Exhibit A*. However, as to deposition  
3 witnesses, a party's attorney may show a witness, who comes within the  
4 description of Section C(1)(b) above, this Amended Protective Order  
5 and Exhibit A thereto and have them orally agree on the record to  
6 Exhibit A and sign Exhibit A.

7 3. Any person may be examined as a witness during a  
8 deposition concerning any information or material designated as  
9 "Confidential Information" to which that person had lawfully received  
10 or authored prior to and apart from this action. During examination, any  
11 such witness may be shown information or material designated as  
12 "Confidential Information" by a party which appears on its face or from  
13 other documents or testimony to have been received or authored by that  
14 witness from, or communicated to that witness by, that same party or  
15 otherwise appears on its face to contain information about which it  
16 appears reasonably likely that the witness has discoverable information,  
17 provided that the examining party's attorney may show a witness, who  
18 comes within the description of Section C(1)(b) above, this Amended  
19 Protective Order and Exhibit A thereto and have them orally agree to  
20 Exhibit A.

21 **D. RESTRICTIONS ON THE USE AND**  
22 **DISCLOSURE OF CONFIDENTIAL**  
23 **INFORMATION**

24 1. Any information designated as Confidential  
25 Information shall not be made available or disclosed to any person other  
26 than the Qualified Persons identified in Section C. Persons who, by  
27 virtue of the conduct of this litigation, have knowledge of the designated  
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1 Confidential Information shall not suffer or permit its disclosure or that  
2 of any information obtained, derived, compiled, or ascertained  
3 therefrom, to any person or persons not entitled under this Amended  
4 Protective Order to receive such information.

5           2. Disclosure of all items designated as Confidential  
6 Information in this action shall be solely for the purposes of this action,  
7 United States District Court, Central District of California, No. SACV  
8 10-711 DOC (ANx) unless and until such designation is removed either  
9 by Stipulation by attorneys for the named parties or by Order of the  
10 Court.

11           3. With respect to information designated as Confidential  
12 Information, no copies of documents, testimony, or other information  
13 shall be received, kept, or maintained by individuals other than the  
14 Qualified Persons as defined above.

15           4. Any document designated as CONFIDENTIAL shall be  
16 filed with the Court only if it is under seal. Any party wishing to file  
17 under seal any document or other item designated "CONFIDENTIAL"  
18 or otherwise designated as Confidential Information shall do so in  
19 compliance with Civil Local Rule 79-5.1. In addition to the written  
20 application filed by the filing party, any non-filing party shall have 14  
21 days from the date of filing to file a brief supporting the request that the  
22 documents remain confidential and under seal and that during this time  
23 period, the Court will not make any ruling on the written application.  
24 Any party filing a document marked CONFIDENTIAL that it received  
25 from a third party pursuant to a subpoena must notify the third party that  
26 its CONFIDENTIAL information has been filed with the Court. The  
27 third party has fourteen (14) days from such notice to file a written







